



Jeb Bush
Governor

Department of Environmental Protection

3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Colleen M. Castille
Secretary

December 3, 2006

Mr. Dan Kimball, Superintendent
Everglades and Dry Tortugas National Parks
40001 State Road 9336
Homestead, FL 33034-6733

Dear Dan:

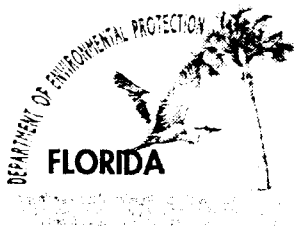
Enclosed is a copy of the certified item of the November 14, 2006, approval by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida of the implementing regulations for the Dry Tortugas National Park. The certified item notes the Board of Trustees concurred with the implementing regulations for the Dry Tortugas National Park for a period of five years at which time the National Park Service would bring the regulations back for review and approval under the terms of the Management Agreement.

This serves as written concurrence for the implementing regulations from the Board of Trustees under the terms of the Management Agreement for Certain Submerged Lands in Monroe County, Florida, located within Dry Tortugas National Park.

Thank you for your assistance in this matter. I appreciate the all of the efforts by you and your staff during this process. If you have any questions please don't hesitate to contact me: phone-(850) 245-2094; fax-(850) 245-2110 and email address: stephanie.bailenson@dep.state.fl.us.

Sincerely,

Stephanie Bailenson, Director
Office of Coastal and Aquatic Managed Areas



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Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Colleen M. Castille
Secretary

STATE OF FLORIDA

COUNTY OF LEON

CERTIFICATE

I, Cynthia Muir, do hereby certify that the Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, met on November 14, 2006, and approved the following Item 1 with the following amendment:

The Board of Trustees concurred with the implementing regulations for the Dry Tortugas National Park for a period of five years at which time the National Park Service would bring the regulations back for review and approval under the terms of the Management Agreement.

Item 1 **Dry Tortugas National Park Regulation Implementation**

REQUEST: Consideration to approve the proposed implementing regulations for the Dry Tortugas National Park. Draft implementing regulations were reviewed and approved by the Florida Fish and Wildlife Conservation Commission on February 2, 2006.

COUNTY: Monroe

LOCATION: Submerged lands surrounding several small islands, flats, and shoals located in the Gulf of Mexico near the western extremity of the Florida Keys, at approximately latitude twenty-four degrees thirty-eight minutes south, longitude eighty-two degrees fifty-two minutes west of Greenwich.

STAFF REMARKS: On August 9, 2005, the State of Florida Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) approved a Management Agreement between the Board of Trustees and the National Park Service (Service) for management of certain sovereign submerged lands in Monroe County, Florida that are located within the Dry Tortugas National Park (Park).

The Management Agreement outlines the conditions under which the Service will manage the submerged lands in accordance with the final Dry Tortugas National Park General Management Plan/Environmental Impact Statement (General Management Plan) and applicable implementing regulations in fulfillment of its statutory purposes.



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The implementing regulations are the culmination of a lengthy public process to improve the management of the Dry Tortugas. Beginning with scoping meetings in 1998 to update the Fort Jefferson Monument General Management Plan and through working groups, the Service has cooperatively developed a strategy that satisfies environmental and societal needs. The working group included commercial and charter fishermen, divers, scientists, non-governmental organizations, and other concerned citizens.

The management plan uses a zoning approach recommended by the working group to manage the approximately 100 square nautical miles of the Park. Fifty-four square nautical miles would be in a "Natural/Cultural Zone." Appropriate activities in this zone would include scuba diving, snorkeling, boating, wildlife viewing and recreational fishing. Forty-six square nautical miles of the Park will be in a "Research Natural Area." Activities within this zone would be restricted to non-manipulative research, education and other activities that do not detract from the area's research values. Non-consumptive activities such as scuba diving, snorkeling, wildlife viewing, and boating would be allowed. Recreational fishing would not be allowed. Maps depicting these zones are provided in the backup information.

This zoning approach fulfills the Congressional mandate to manage the Park to protect and interpret a pristine subtropical marine ecosystem, including an intact coral reef community. Studies show a significant decline in stony corals over the last 30 years. Staghorn coral (*Acropora prolifera*) and elkhorn coral (*Acropora palmata*) recently became the first stony corals to be listed as threatened under the Endangered Species Act. Florida Fish and Wildlife Conservation Commission (FWC) surveys show that between 1999 to 2004, there was a greater loss in stony coral cover in the Tortugas area than for the rest of the Florida Keys. Other studies indicate that implementation of the adjacent Tortugas Ecological Reserve in 2001, has already shown promise. There are documented increases in abundance of grouper and snapper and larger sized fish within the Reserve.

Pursuant to the Management Agreement, the Service submitted the draft implementing regulations to the FWC for its review and concurrence. FWC reviewed the proposed regulations at a December 1, 2005, meeting in Key Largo, FL. At the meeting on February 2, 2006, the FWC concurred with the Service's draft implementing as related to fishing, including the establishment of a Research Natural Area. FWC requested and the Service agreed to work closely together to set clear performance measures and establish a time frame for examining the effects of the protected area.

After receiving FWC concurrence, the Service published the proposed implementing regulations in the Federal Register on April 7, 2006, for a 60 day public comment period. A public meeting on the proposed regulations was held on May 17, 2006, in Key Largo, FL.

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Based on the preceding comments and responses, the Service has made four changes to the proposed rule language for clarity and consistency with intent. The Service has consulted with FWC about these changes.

1. The definition of "designated anchorage" was modified by removing the reference to "rubble bottom." The definition now reads, "any area of sand within one nautical mile of the Fort Jefferson Harbor Light." This change was made in response to comments that the anchoring provisions as initially proposed would have been inconsistent with the adjacent areas of the Florida Keys National Marine Sanctuary that only allow for anchoring in sand to avoid potential damage to coral.
2. The definition of fishing gear being "not available for immediate use" was modified to delete the reference to requiring the removal of hooks and lures from fishing rods. The definition now reads, "not readily accessible for immediate use, e.g., by being stowed unbaited in a cabin, locker, rod holder, or similar storage area, or being securely covered and lashed to a deck or bulkhead." This change was made to accommodate concerns that the removal of hooks and lures as initially proposed was impractical and inconsistent with the "not available for immediate use" standard used in the adjacent Florida Keys National Marine Sanctuary.
3. The landing and takeoff of aircraft provision was modified to include all closed areas within the designated landing zone (within a radius of one mile of Garden Key). The proposed regulations restricted aircraft landings and takeoffs to within 500 feet of Bush Key when that island was closed for wildlife nesting. Other sensitive areas within the vicinity have been identified as needing the 500 foot buffer from aircraft landings and takeoffs. The regulation has been modified to read, "Aircraft may be landed on the waters within a radius of one (1) mile of Garden Key, but a landing or takeoff may not be made within five hundred (500) feet of any closed area." This change was made in response to comments that the initial proposal would not adequately protect threatened elkhorn and staghorn coral or nurse shark mating areas.
4. Paragraph (g), regulations for discharges into park waters, was modified to prohibit vessel discharges in the Research Natural Area, with the exception of engine cooling water and exhaust. The draft regulation would have allowed for other discharges in the RNA (i.e., fish parts, bilge water, and gray water) that are inconsistent with the goal of maintaining the highest possible water quality in this zone. The revised regulation will enhance resource protection in the RNA and is consistent with NOAA discharge regulations for the adjacent Tortugas Ecological Reserve.

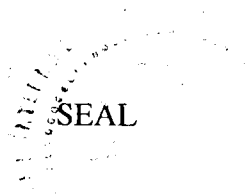
Under the terms of the Management Agreement the Service must receive the approval from the Board of Trustees for the proposed implementing regulations to go into effect. If the Board of Trustees does not concur with any such regulations, or updates thereto, the Board of Trustees or the Service has the option to terminate the Management Agreement.

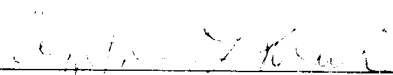
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At least every five years, the Service shall submit a report on the status, activities, and conditions of the sovereignty submerged lands within the Park to the Board of Trustees.

RECOMMEND APPROVAL

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the Board of Trustees of the Internal Improvement Trust Fund on this 30th day of November A.D., 2006.





Cynthia Muir, Director
Office of Cabinet Affairs